

A certificate of appealability will not issue with respect to any order adopting this report

and Recommendation to dismiss the petition with prejudice because petitioner has not stated a “viable claim of the denial of a constitutional right”: or which is “adequate to deserve encouragement to proceed further.” *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983); *see also* 28 U.S.C. § 2253 ( c ); Fed. R. App. P. 22(b).

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting this Report and Recommendation will not be taken in “good faith” and, therefore **DENIES** petitioner leave to proceed on appeal *in forma pauperis* upon a showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6<sup>th</sup> Cir. 1997).

IT IS SO ORDERED.

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Susan J. Dlott  
Susan J. Dlott  
United States District Judge

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